



Planning Department

TOWN OF ACTON

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INTERDEPARTMENTAL COMMUNICATION

To: Steven Ledoux, Town Manager **Date:** October 31, 2013
From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner
Subject: Site Plan Special Permit Application #08/01/13-444

Location:	400 – 408 Massachusetts Avenue
Applicant:	TRB Development Group, Inc., 36 Londonderry Turnpike, Hooksett, NH 03106
Owner:	Daniel & Carl Silverstrone, Mustard Seed Properties, LLC., c/o Page Road, Bedford, MA 01730-1333
Engineer:	Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772
Architect:	BKA Architects, Inc., Architecture and Interiors, 142 Crescent Street, Brockton, MA 02302
Zoning:	Kelley's Corner (KC) Groundwater Protection District Zone 4
Proposed FAR:	0.15 (Includes proposed CVS and existing TD Bank) Base FAR – 0.20 Maximum FAR – 0.40 (Based upon requirements set forth in Section 5.6)
Proposed Uses:	CVS Pharmacy (with potential for future drive-up facility) & TD Bank Branch
Map/Parcel:	F-3/13,786 ft ² of 118-2, 127 & 128
Hearing Date:	September 9, 2013
Decision Due:	December 8, 2013

Attached are the legal ad, application, plan sheets and interdepartmental review comments received to date. As of this date, comments have been received from the Town of Acton's Design Review Board, Health Department, Water Supply District of Acton, Engineering Department and an email from the Planning Director.

This memorandum is respectfully being submitted as supplemental and in addition to the previous memorandum dated September 6, 2013. The creation of this memorandum is based upon a revised Site Plan Layout as well as written documentation provided by the Applicant to address comments and concerns which arose at the September 9, 2013 hearing.

The applicant is proposing to demolish an existing structure (Goodyear building) and construct a new CVS retail store in its place. As per the Town of Acton Assessor's Office information, the existing "Goodyear" Site is 1.32 acres (57,499 square feet) in area, has approximately 200'-0" of frontage along Massachusetts Avenue, and is located within the Kelley's Corner zoning district. The existing "Goodyear" structure is approximately 6,933 square feet in size and was constructed in 1974, according to Assessor's Office records.

The Site Plan:

Legal counsel representing the Applicant, has provided a letter and documentation (attached hereto) in order to address the previous concerns regarding the long-term ownership of the 400 Massachusetts Avenue property as well as the immediately abutting land parcels. The submitted documentation describes the Applicants intent to combine 400 Massachusetts Avenue (proposed CVS property), 408 Massachusetts Avenue (TD Bank) and +/- approximately 13,786 square feet of the 408 Massachusetts Avenue Rear property into one parcel of land all under one single common ownership entity should the Site be developed as proposed in the Site Plan Special Permit application.

The site plan special permit application proposes to construct a new essentially one-story (less than 36' high), 14,705 square foot (total NET FAR) CVS retail outlet. The proposed structure is predominantly a one story building, with the exception of a mezzanine level located along the eastern side of the building. The proposed use of the mezzanine level would primarily be for storage of the retailer's merchandise. The ground floor of the proposed CVS building is +/- approximately 12,578 square feet of NET FAR, while the proposed mezzanine is +/- approximately 2,127 square feet of NET FAR in size.

The portion of the Site Plan Special Permit which proposes the construction of the CVS building, includes a 73 space parking lot and provisions for a future pharmacy drive-through pick-up window facility. The new proposed 73 parking spaces are in addition to the 24 parking spaces already in existence as part of the TD Bank development. Due to the parcels of land being consolidated into one single ownership parcel of land, a total of 97 parking spaces will now be provided on the overall Site. The current site plan layout places 34 of the parking spaces and a 24'-0" wide accompanying maneuvering aisle along the side of the CVS building and perpendicular to Massachusetts Avenue. The remainder of the 73 parking spaces are located behind the proposed building. Based upon the parking requirements set forth in Section 6.3 of the Zoning Bylaw along with the permitted reduction in parking requirements set forth in the Kelley's Corner Zoning District through Zoning Bylaw Section 6.9.5.3, a total of only 34 parking spaces are required for the proposed development of the CVS building. Again, the Site Plan Special Permit application as currently proposed, is seeking approval for a total of 73 new and additional parking spaces for the CVS retail use.

The Site Plan Special Permit application also proposes an approximately +/- 25'-0" wide driveway to run across the front of the property and parallel to Massachusetts Avenue. This results in the proposed CVS structure being set back +/- approximately 51'-3" from the Massachusetts Avenue property line at its absolute closest corner only. The proposed CVS structure is not sited parallel to Massachusetts Avenue, which results in the majority of the proposed building being setback further than the closest corner. The neighbouring TD Bank building is currently setback 34'-4" from the Massachusetts Avenue property line.

The initial site plan and layout of the property resulted in multiple non-compliant issues with regards to the minimum parking lot dimensional design requirements. These issues have been addressed through the submission of a Parking Proof Plan in accordance with Section 6.7.9 of the Bylaw. Although the Parking Proof Plan does provide an alternate design layout and configuration for property, it may not be viewed as ideal, as it would move the proposed CVS structure further back into the property, and create a large parking area and 24'-0" maneuvering aisle in front of the building.

The proposed relevant zoning information for the subject site is summarized in the following table:

By-Law Requirements	Required	Existing	Proposed
Min. Lot Area (ft ²)	10,000 ft ²	57,677 ft ²	117,177 ft ² *
Min. Lot Frontage (ft)	100'-0"	200'-0"	400'-0"
Min. Front Yard (ft) - North	30'-0"	NA	51.2'***
Min. Side Yard (ft) – East	NR	NA	28.8'
Min. Side Yard (ft) – West	NR	NA	120.6'
Min. Rear Yard (ft) – South	NR	NA	126.1'

Max. Building Height (ft)	36'-0"	NA	Unknown
Max. F.A.R. (Floor Area Ratio)	0.20	NA	0.15***
Open Space	NR	NA	NA
Parking Requirements	Required	Existing	Proposed
Use: Retail Store (14,705ft ²) 1 space/300ft ² of N.F.A.	49	NA	73
Kelley's Corner Zoning District Reduction as per 6.9.5.3	34	24 (Existing in association with TD Bank)	73**** (97 total including TD Bank)

- * This number is based upon the most recent amended site plan submitted (dated 10/30/13), and works on the notion that lands, either in their entirety or portions thereof, immediately abutting the 400 Massachusetts Avenue property will be consolidated into one single owner/entity should the proposed Site Plan Special Permit be granted and development of such plan begin.
- ** The front setback is being measured from the Massachusetts Avenue property line to the closest projection of the proposed CVS structure. The proposed structure is not sited parallel to the Massachusetts Avenue property line which results in the majority of the proposed building being setback further than the closest corner.
- *** The adjusted total developable site area (as described in note * above) is 117,177 square feet. With regards to FAR, the previously constructed and already existing TD Bank building is included in the overall Floor Area Ratio calculations. Based upon preliminary calculations, the proposed net floor area of the CVS structure is +/- approximately 14,705 square feet and the existing TD Bank building is approximately +/- 2,958 square feet. Therefore, the proposed net floor area of the entire property as currently proposed is approximately 0.15.
- **** Due to the parcels of land being consolidated into one single ownership parcel of land, a total of 97 parking spaces will now be provided on the overall Site. 73 new parking spaces are being proposed as part of the CVS development and are in addition to the 24 parking spaces already in existence as part of the TD Bank development. Based upon the parking requirements set forth in Section 6.3 of the Zoning Bylaw along with the permitted reduction in parking requirements set forth in the Kelley's Corner Zoning District through Zoning Bylaw Section 6.9.5.3, a total of only 34 parking spaces are required for the proposed development of the CVS building. The Site as a whole, results in a combined minimum parking requirement of 41 spaces. Based upon the currently submitted Site Plan Special Permit application, if approved as proposed, an overall total of 97 parking spaces would be provided on the property.

ITEMS FOR BOARD OF SELECTMEN CONSIDERATION

1) Access Driveways

- 6.7.3 *ACCESS Driveways – Each LOT may have one ACCESS driveway through its FRONTAGE which shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), a wider and/or greater number of ACCESS driveways is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS driveway for one-way traffic only may be a minimum of 14 feet wide. There shall be no more than one additional ACCESS driveway for each 200 feet of FRONTAGE and all such additional ACCESS driveway(s) shall be at least 200 feet apart on*

the LOT measured from the centerline of each ACCESS driveway. No driveway for a nonresidential PRINCIPAL USE shall cross land in a residential zoning district in which the PRINCIPAL USE is not allowed.

Once the existing property lines are reconfigured to create one single consolidated lot, the two access driveways previously approved as part of the Site Plan Special Permit which constructed the TD Bank branch will remain. The access driveway which was built on the eastern side of the former TD Bank property would become the main entrance into the proposed CVS development. The Site Plan as currently proposed indicates a third (3rd) access driveway to be created on the far eastern side of the CVS property which would provide egress only from the Site. With the exception of delivery trucks, traffic utilizing this exit would be required to make a right hand turn onto Massachusetts Avenue.

The third (3rd) access driveway referenced in the preceding paragraph, is designed to comply with the minimum 200'-0" distance separation from any other access drive as measured from centerline to centerline. This third (3rd) access drive may be approved at the discretion of the Board of Selectmen based upon their review of its current necessity and/or provide an opinion and determination otherwise. If in the opinion of the Board of Selectmen, the third (3rd) access driveway is currently necessary, some thought or discussion may be warranted regarding if and/or when any other abutting property should be the subject of a Site Plan Special Permit. Should any development of abutting or adjoining land be proposed, the Board of Selectmen may wish to revisit this third (3rd) access driveway and perhaps modify accordingly if necessary.

2) Excess Amount of Parking Spaces

Proposed CVS Development
Required: 34 parking spaces
Proposed: 73 parking spaces

Existing TD Bank
Required: 7 parking spaces
Built: 24 parking spaces

Total Number of Spaces Required for Entire Property: 41 parking spaces
Total Number of Spaces Proposed for Entire Property: 97 parking spaces

3) Additional Drive Across Front of Property

The currently submitted Site Plan proposes an approximately +/- 25'-0" wide coloured stamped asphalt driveway spanning across the front of the property and in front of the proposed CVS building. Approval of this proposed drive is at the discretion of the Board of Selectmen. Without this drive, there is potential for the proposed CVS building to perhaps be pulled closer to the Massachusetts Avenue property line and would be more in overall line with the neighbouring TD Bank building.

4) Proposed Flexible Parking Plan

Although the Applicant has provided a Parking Proof Plan which complies with the requirements of the Zoning Bylaw, it is not the preferred choice of site design and layout by the Applicant. The Applicant would prefer to construct the site plan and parking lot layout shown on the Proposed Flexible Parking Plan. Approval of the Proposed Flexible Parking Plan is at the discretion of the Board of Selectmen.

11/4 (5) 040

Christine Joyce

From: Roland Bartl
Sent: Wednesday, October 30, 2013 10:59 AM
To: Manager Department
Cc: Scott Mutch; Planning Department; 'jswerling@bohlereng.com'; Engineering Department
Subject: FW: Shops at Kelly's Corner--Acton MA Traffic Operations Study MassDOT Comments

Hi, Christine:

This e-mail string should go into the BoS hearing record in docushare for the CVS site plan. It closes the loop from the CVS's traffic study, which found a traffic warrant met for the no-name street intersection, whereas the project is proceeding without a traffic signal.

Mass. Ave. (Rte. 111) is a State owned highway. MassDOT has determined that no traffic signal should be installed at this time- see e-mail from Eric Nascimento (DOT), dated Wednesday, April 17, 2013 (below).

Roland Bartl, AICP
Planning Director
Town of Acton
472 Main Street
Acton, MA 01720
978-929-6631

From: mattocksrp@aol.com [mailto:mattocksrp@aol.com]
Sent: Friday, May 24, 2013 11:29 AM
To: Roland Bartl
Cc: trboisvert@trb-group.com; keh@teppllc.com; jsverling@bohlereng.com
Subject: Fwd: Shops at Kelly's Corner--Acton MA Traffic Operations Study MassDOT Comments

Roland,
Below is Mass DOT's e-mail from 4-18-13 outlining their current comments on our traffic study and signal plan which I have attached for your files. Based on Mass DOT's comments we believe our proposed traffic light may want to be coordinated with the work you are seeking to do at the Rt 27 Main Street & Rt.111 Massachusetts Avenue. This assumes you agree with this position and the timing of the work is in the next 12-36 months. Our team believes this coordination is important and should be considered.

We are now ready to proceed with the final permitting of the CVS. Let's get together next week to discuss. Let me know when you have +/- 1 hour to meet.

Rich

Richard Mattocks

TRB Development Group, Inc.

Hudson, MA,
Mobil 603-361-7160
Hooksett, NH Office: 603-669-8500
E-mail: rpmattocks@trb-group.com
www.trb-group.com

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-----Original Message-----

From: Kim Eric Hazarvartian <keh@teppllc.com>

To: mattocksrp <mattocksrp@aol.com>; rpmattocks <rpmattocks@trb-group.com>
Sent: Thu, Apr 18, 2013 11:07 am
Subject: 1181 Shops at Kelly's Corner--Acton MA Traffic Operations Study MassDOT Comments

Hi Rich,

I hope all is well.

MassDOT's comments are below. Tim Boisvert and I discussed the comments yesterday.

Thanks very much.

Kim Eric Hazarvartian, Ph.D., P.E., PTOE
Principal
TEPP LLC
93 Stiles Road, Suite 201, Salem, New Hampshire 03079 USA
800 Turnpike Street, Suite 300, North Andover, Massachusetts 01845 USA
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From: Nascimento, Eric (DOT) [<mailto:eric.nascimento@state.ma.us>]
Sent: Wednesday, April 17, 2013 2:15 PM
To: Kim Eric Hazarvartian
Cc: Frawley, Joseph (DOT)
Subject: RE: 1181 Shops at Kelly's Corner--Acton MA Traffic Operations Study for Review

Hi Kim,

We have reviewed the traffic operations study for the intersection of Massachusetts Avenue / Connector Road in the Town of Acton. At this time we do not support installing a traffic signal at the intersection of Massachusetts Avenue/ Connector Road. The report shows that the 8- hour warrant is met under the existing and build condition. However, typically we remove some or all of the right turns at intersections when the side street has a high right turn volume. If all of the side street right turn traffic were removed the intersection would not meet warrants. If 50% of the side street right turn traffic were removed than the intersection would meet the 8-hour warrant for only 7 out of the necessary 8 hours.

We also have concerns with the signalized capacity analysis show in the study. In particular, the study assumed that the Connector Road and the site driveway will operate concurrently. However, we do not feel that these approaches can safely operate concurrently because of the skew of the intersection.

We feel that the geometric improvements proposed in the concept plan should help to address some of the capacity concerns at this intersection. We cannot tell from the plan what type of improvements are planned for the Connector Road. It appears that there is a right turn lane proposed but it is not accounted for in the analysis. We suggest making this lane as long as possible since this is one of the main movements at the intersection.

Since the intersection is close to meeting warrants we suggest that other geometric improvements, such as a roundabout be explored. If other geometric improvements are not feasible or do not address some of the concerns at the intersection then we would be amenable to having conduit and pull boxes be installed as part of the geometric improvements for future signalization.

On another note, we also took a look at the proposed site plan for CVS and we have some concerns with the design of the eastern driveway. We feel that it should be a single lane exit. The reason is that a car in the left turn lane will usually limit the sight distance for a vehicle in the right turn lane.

If you have any questions or concerns, please feel free to contact me. Thanks.

-Eric

Eric Nascimento

District 3 Operations
Massachusetts Department of Transportation, Highway Division
508-929-3875

From: Frawley, Joseph (DOT)
Sent: Friday, April 12, 2013 3:37 PM
To: Nascimento, Eric (DOT)
Subject: FW: 1181 Shops at Kelly's Corner--Acton MA Traffic Operations Study for Review

Eric,

The study that Kim Hazarvartian prepared for the addition of a traffic signal on Route 111 in Acton is attached. I will forward on the concept plan in a separate email.

Joe

From: Kim Eric Hazarvartian [<mailto:keh@teppllc.com>]
Sent: Friday, March 22, 2013 8:35 AM
To: Frawley, Joseph (DOT)
Subject: 1181 Shops at Kelly's Corner--Acton MA Traffic Operations Study for Review

Hi Joe,

I hope all is well.

The traffic operations study (TOS) that we discussed recently is attached for review.

The TOS includes signal warrants and capacity analysis for the Massachusetts Avenue (Massachusetts Route 111)/connector road intersection east that is east of the Massachusetts Avenue/Main Street (Massachusetts Route 27) intersection. The TOS also includes traffic-impact information related to the redevelopment of a CVS/pharmacy on the Acton Tire, Inc. site at the Massachusetts Avenue/connector road intersection.

The TOS does not include a plan for the proposed signalized Massachusetts Avenue/connector road intersection. We plan to provide a plan after your office reviews the TOS in terms of overall signalization feasibility.

Please feel free to contact me with questions or comments as they arise.

Thanks very much.

Kim Eric Hazarvartian, Ph.D., P.E., PTOE
Principal
TEPP LLC
93 Stiles Road, Suite 201, Salem, New Hampshire 03079 USA
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10/21 (4) 030

Christine Joyce

From: Roland Bartl
Sent: Tuesday, October 15, 2013 1:34 PM
To: Christine Joyce; Janet Adachi; Steve Ledoux
Cc: Scott Mutch
Subject: RE: CVS

Yes, they asked for that further continuance after meeting with Scott and I. There is a solution identified (at least in theory) to every zoning problem we have noted, but they just need the time now to make the plan changes.

Roland Bartl, AICP
Planning Director
Town of Acton
472 Main Street
Acton, MA 01720
978-929-6631

From: Christine Joyce
Sent: Tuesday, October 15, 2013 12:44 PM
To: Janet Adachi; Steve Ledoux
Cc: Scott Mutch; Roland Bartl
Subject: CVS

' Mr. Mattocks was in he will be asking for a continuance to November 4th at 8:20. I have scheduled it on the agenda for the 4th for your vote to continue the hearing.



9/9/ (3) 020

TOWN OF ACTON
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Janet K. Adachi
Chairperson, Board of Selectmen

August 5, 2013

Acton Beacon Legal Ad Division

Below please find a copy of a legal advertisement to appear in the Acton Beacon on August 22 and September 5, 2013

Please send the bill to:

TRB Development Group, Inc.
36 Londonderry Turnpike
Hooksett, NH 03106
Phone # (603)-669-8500

Please send proof copy and tear sheet to:

Town Manager's Office
472 Main Street
Acton, MA 01720

**SEL/400 MASSACHUSETTS AVE.
LEGAL NOTICE
TOWN OF ACTON
NOTICE OF HEARING**

The Acton Board of Selectmen will hold a public hearing on September 9, 2013 at 7:45 PM in the Francis Faulkner Hearing Room in Town Hall, 472 Main Street, Acton on the application of TRB Development Group, Inc., for a Site Plan Special Permit # 8/01/13-444, required under Section 10.4 of the Acton Zoning Bylaw, for a CVS Pharmacy to be located at 400 Massachusetts Ave, Acton, MA 01720. The application and accompanying plans can be inspected at Town Hall during normal business hours.

Acton Board of Selectmen

AD#12986311
Acton Beacon 8/22, 9/5/13

Very truly yours,
Christine Joyce
Town Manager's Office

Selectman Adachi

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Acton Board of Selectmen